MONTANA LEGISLATIVE HISTORY

Chapter 302 1979

Bill H 6666 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s) 2/14		C	Hearing Date(s) 3/8		C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 666

INTRODUCED BY Conroy, Hand Brand NATHE

A BILL FOR AN ACT ENTITLED: "AN ACT CEDING TO THE UNITED STATES CONCURRENT JURISDICTION OVER CRIMES AND OFFENSES UNDER THE LAWS OF THE STATE OVER AND WITHIN CERTAIN LANDS DEDICATED TO NATIONAL PARK PURPOSES; AND ACCEPTING JURISDICTION OVER FEDERAL LANDS USED FOR NATIONAL PARK PURPOSES IN MONTANA THAT THE UNITED STATES IS WILLING TO RELINQUISH."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Concurrent jurisdiction of the United States over certain lands dedicated to national park purposes. (1) Concurrent jurisdiction over crimes and offenses under the laws of the state is ceded to the United States over and within all the lands dedicated to national park purposes in the following tracts:

(a) Big Horn Canyon;

(b) Grant-Kohrs national historic site;

(c) Big Hole national battlefield; and

(d) Fort Union trading post.

(2) The concurrent jurisdiction ceded by subsection (1) is vested upon acceptance by the United States by and through its appropriate officials and shall continue so long as the lands within the designated areas are dedicated to park purposes.

Section 2. Acceptance of jurisdiction over federal lands. The consent of the state is hereby given to the retrocession of jurisdiction, either partially or wholly, by the United States of America over lands owned by the United States of America within the boundaries of Montana that are used for national park purposes. The governor is authorized to accept for the state retrocession of jurisdiction.

Section 3. Filing of acceptance of jurisdiction over federal lands. (1) When the state receives written notification from the authorized official or agent of the United States of America that the United States desires or is willing to relinquish to the state jurisdiction, or a portion thereof, over certain lands owned by the United States within Montana that are used for national park purposes, the governor may accept relinquishment.

(2) After acceptance and approval by the governor, retrocession of jurisdiction becomes effective upon filing of the original acceptance with the secretary of state of Montana.

-End-

HB 666 INTRODUCED BILL

Judiciary COMMITTEE

__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HJR 31	to study alternative no-fault motor vehicle reparations plan, etc.	2/7	Feda	2/14	pass	2/14
HB 638	medical team - investigate medical practices in state prison	2/8	Azzara	2/13	moved	
HB 673	revise relating to Montana youth court - salary of probation officers	2/8	Keedy	2/14	pass	2/14
HB 668	forcible entry and detainer and unlawful detainer etc.	2/8	Ramirez	2/14	pass	2/14
HB 666	concurrent jurisdiction of crimes - national park purposes	2/8	Conroy	2/14	pass	2/14
HB 641	revise code of ethics - prohibiting former state employee from contracting etc.	2/8	Reichert	2/14	pass	2/14

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 14, 1979

The regular meeting of the Judiciary Committee was called to order by Representative Scully at 8:00 a.m. in room 436 of the Capitol Building on Wednesday, February 14, 1979. All members were present with the exception of Representatives Day, Daily, Keedy, Seifert and Holmes who came in later. Representative Uhde was absent.

Bills scheduled for hearing were House Bills 641, 652, 666, 668, 673 and House Joint Resolution 31.

HOUSE BILL NO. 641: Representative Reichert. This is an act to improve the code of ethics. It has a section on state employees. She went through the bill and explained the changes and new sections. She discussed her relationship to fireman's pensions, mentioned that after her husbands death and if she had been in the legislature at that time she would have abstained from voting. She discussed this conflict of interest at some length. She read the new sections in the bill, and explained that on page 6, line 5, it would have to be modified.

SENATOR ED SMITH: I am here in support of House Bill #641. I want to give one example of how some areas are being abused. He went on to talk about a breach of ethics in one of the agencies.

Because Senator Smith had to leave the room for another hearing, Chairman Scully asked the committee members if they wished to ask questions of him at this time. Representative Roth wondered if on page 2, the rules of conflict, wouldn't it be pretty hard to not have a conflict of interest. There was some discussion about this and Representative Conroy added some comments.

PAUL RICHARDS: Common Cause, state director. I feel this bill is definitely a step in the right direction. He read an article on enforcement. I want to suggest an amendment. I feel a fail-safe mechanism should be build into the bill. On page 6, line 19, I see no conflict. He went on to express the need for the bill. Laurice Sullivan from Common Cause is also here to answer questions.

JACK RAMIREZ, OPPONENT: Representative from Billings. This is a bill I worked on last session. The problem we have with this is the problem we have with all bills of this kind. You can't relate to California here in Montana. We have to be very careful about what we do. The problem is that nothing is defined. Everything is so vague that I can't figure out what it means.

There was no further discussion and the hearing closed on House Bill 652.

HOUSE BILL NO. 666: Representative Conroy. This bill is to allow the National Park Service to have concurrent jurisdiction over crimes in the following areas. The Big Horn Canyon, Grant-Kohrs, Big Hole Battlefield, Fort Union trading post, but it does not cover Custer Battlefield. He went on to tell about a case in the park and that the local police and the sheriff could not go in to help out. The jurisdiction for federal lands such as Custer Battlefield would be included in another section.

Representative Keyser said he could see some tremendous problems with this bill. Representative Scully stated that they could have concurrent jurisdiction at their request right now, in the National Parks. We could agree to go in if they asked. He explained this further.

There was some discussion and the hearing closed on House Bill 666.

HOUSE BILL NO. 673: Representative Keedy. This bill will place probation officers under the state employee classification on the plan at specific grades. It has been four years since they had an increase in salary. Their salaries would float with some discretion from biennium to biennium with the state plan.

GLEN HUFSTETLER: Montana Probation Officers Association. I have been a probation officer for about 8 and 1/2 years. There are 86 across the state, and of those 74% have Bachelors Degrees and 14% have Masters. We should have 41% more in the field with Masters by this summer. Mostlly we are looking for talent. We are real happy with the calibre of people we have but we are concerned with keeping them. We have had the same salary since 1974 without a cost of living raise. The second area we are concerned with is our responsibility to the people. We have acted on your request to upgrade our profession.

JEREMIAH JOHNSON: Probation Officer, 4th District and President of Montana Probation Officers Association. I do want to point out one concern that we have. What we are attempting to do is come up with some sort of a salary matrix so we don't have to come back every session of the Legislature. In Senate Bill 106 our concern was to set a limit with a cost of living structure. The Senate eliminated the cost of living section out of the bill. The elimination puts us right back with the same problem that we started out with. We are judicial district employees and the Judges do the hiring and firing. I receive 5 different salary

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 14, 1979

Following the regular meeting the committee went into executive session at 9:45 a.m. in room 436 of the Capitol Building on Wednesday, February 14, 1979. Chairman Scully called the meeting to order with all members present.

HOUSE JOINT RESOLUTION NO. 31: Representative Keyser moved "do not pass". Representative Keedy offered a substitute motion "do pass". Representative Keyser stated "I think a study should include all kinds of insurance and not just this one. Then followed discussion about whether a resolution could be introduced for a study or if it has to meet the bill deadline.

The motion to pass carried with the following representatives voting "no", Kemmis, Seifert, Keyser and Conroy.

HOUSE BILL NO. 673: There was a general discussion about the steps in the pay plan. Representative Lory moved "do pass". The question was raised about how the plan took care of cost of living. Representative Lory said that the grade is fixed by law and it has a built-in inflationary factor. There was more discussion about this.

The question was called and the motion passed with Representatives Day and Curtiss voting "no".

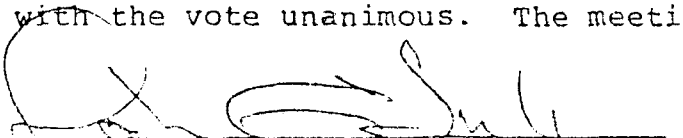
HOUSE BILL NO. 668: Representative Eudaily moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 666: Representative Conroy moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 641: Representative Seifert moved "do not pass". He spoke to his motion. Representative Keedy spoke to the motion. Representative Lory spoke to the motion. Representative Conroy spoke to the motion. Representative Curtiss spoke to the motion. Representative Holmes spoke to the motion.

The question was called and the motion carried with the following Representatives voting "no"; Representatives Uhde, Holmes and Kemmis.

HOUSE BILL NO. 652: Representative Keyser moved "do pass". The motion carried with the vote unanimous. Representative Keyser moved to place it on the consent calendar and the motion carried with the vote unanimous. The meeting adjourned at 11:05 a.m.



Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

	BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
	HB 444	2/19/79	3/8/79	3/8/79				3/8/79		
2	HB 445	2/19/79	3/8/79	3/8/79				3/8/79		
3	HB 500	2/20/79	3/13/79	3/5/79					3/13/79	
4	HB 515	2/20/79	3/7/79	3/7/79						3/7/79
5	HB 521	2/20/79	3/12/79	Tabled 3/12/79					3/19/79	
6	HB 523	2/20/79	3/8/79	3/8/79				3/8/79		
7	HB 532	2/20/79	3/9/79	3/9/79					3/19/79	
8	HB 539	2/20/79	3/16/79	3/16/79					3/16/79	
9	HB 542	2/20/79	3/14/79	3/14/79					3/14/79	
10	HB 573	2/21/79	3/8/79	3/8/79					3/18/79	
11	HB 585	2/22/79	3/9/79	3/9/79				3/9/79		
12	HB 719	2/22/79	3/12/79	3/13/79						3/13/79
13	HB 737	2/22/79	3/12/79	3/14/79					3/14/79	
14	HB 813	2/22/79	3/14/79	3/20/79					3/19/79	
15	HB 401	2/23/79	3/5/79	3/5/79						3/5/79
16	HB 487	2/23/79	3/5/79	3/12/79					3/16/79	

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 8, 1979

The fifty-fourth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink, Chairman, in room 331 of the capitol building on the above date at 9:32 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 668:

This is an act to amend the forcible entry and detainer and unlawful detainer law to provide a standard of due diligence in locating defendants within the state for purposes of service of summons, etc. Representative Rameriz gave a statement of what the bill was about.

Walter Jakovich, representing the Montana Landowners Association, stated that they have a few problems serving summons and that people skip away in the night and this bill will help.

There were no further proponents and no opponents.

There were a few questions and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 673:

This is an act to revise the laws relating to the Montana Youth Court Act, revising the salary schedule of probation officers, etc. Representative Keedy gave an explanation of this bill.

Glen Hatch, the chief probation officer in Kalispell, gave a statement in support of this bill. He stated that they have had no cost-of-living raise or salary adjustment since 1974 and he told of the work and additional education they have been doing.

Jeremiah Johnson, representing the Montana Probation Officers Association, stated that their concern is with no increase in the last four years, they would like to set up some matrix system, if possible.

Senator Brown questioned when we pass on an added cost, we have to pass on funding for local governments and would this have to be taken into consideration. Representative Keedy said yes, he would think so.

There were several further questions in regard to pay schedules and comparable salaries and the hearing was closed.

CONSIDERATION OF HOUSE BILL 652:

This is an act to amend section 45-5-501, MCA, relating to the definitions of terms used in the sexual crimes statutes, to make the definition of "without consent" applicable to sexual assault. Representative Harper gave a brief explanation of what this bill involved.

There were no further proponents and no opponents.

There were a few questions and then Senator Turnage stated that if you amend forcible rape into 502, then all the forcible rapes will be treated as misdemeanors. He said that by stating that number in there here is what happens: you say that sexual assault, even if it is committed by force or even by death, is locked into the misdemeanor statute. There was some discussion on this.

Joan Mayer stated that it was her understanding that if it were a 15 year old and an 18 year old, that it would come under the felony category. Representative Harper stated in all honesty, his only concern if it were two 15 year olds we could be in some trouble.

There was considerable discussion over the problems of age, and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 666:

This is an act ceding to the United States concurrent jurisdiction over crimes and offenses under the laws of the state over and within certain lands dedicated to national park purposes, etc. Representative Conroy explained the bill.

There were no further proponents and no opponents.

Senator Towe questioned if he anticipates that the government will in fact acknowledge jurisdiction so that we can accept it and will accept it. Representative Conroy stated this is the request of the park service and other states have the statute on their books.

Senator Towe moved that this bill be concurred in. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 678:

This is an act to allow publicity concerning the identity of an arrested youth and youth court proceedings involving a youth proceeded against as, or found to be, a delinquent youth or youth in need of supervision; to provide that the public and the media may not be excluded from such proceedings, etc. Representative Pistoria read a prepared statement explaining this bill.

There were no further proponents.

Senator Van Valkenburg stated that as he sees the intent is to publize names without regard to whether the person is guilty or not and he stated that our system has been designed to not lump youths with adults. He said that splashing names to the media does have the effect of making stars overnight. He said if the intent is to identify those youth who have been found guilty, then the title and the bill need more revision.

Glen Hufstetler, representing Montana Probation Officers' Association, stated that he works with youth on a continual basis. He said that this would lock that kid into being a juvenile delinquent and the public is going to treat him like one and he is going to have to play the part. He further stated that in areas where they do publish names, the juvenile crime rate has continued to grow as much as if they are not published. He stated that he wished that it were a deterrent, but they do not feel that it is and there is no real value. He said that they initiated a work program in Kalispell, where they have done public work - they have shoveled snow for old age homes, all kinds of new and innovative programs.

Jeremiah Johnson, representing the Montana Probation Officers Association, stated that it is hard to say if in favor of this bill or oppose. He said he was not aware if there has been any success at all in the publishing of names and it may have the opposite effect and youth look in papers to see what kind of crimes they report.

STANDING COMMITTEE REPORT

March 9, 19 73

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 656

Respectfully report as follows: That House Bill No. 656

BE CONCURRED IN

~~XXXXXXXX~~
~~DO PASSXX~~

Everett R. Lensink Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 666

INTRODUCED BY CONROY, HAND, BRAND, NATHE

A BILL FOR AN ACT ENTITLED: "AN ACT CEDING TO THE UNITED STATES CONCURRENT JURISDICTION OVER CRIMES AND OFFENSES UNDER THE LAWS OF THE STATE OVER AND WITHIN CERTAIN LANDS DEDICATED TO NATIONAL PARK PURPOSES; AND ACCEPTING JURISDICTION OVER FEDERAL LANDS USED FOR NATIONAL PARK PURPOSES IN MONTANA THAT THE UNITED STATES IS WILLING TO RELINQUISH."

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-End-

REFERENCE BILL